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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **MICHELE NICOLE LYDON**  
13 **aka MICHELE NICOLE VILLACORTE**  
14 **44962 Blue Rosemary Way**  
**Temecula, CA 92592**

15 **Registered Nurse License No. 554439**

16 Respondent.

Case No. **2012-70**

**A C C U S A T I O N**

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about April 23, 1999, the Board of Registered Nursing issued Registered Nurse  
24 License Number 554439 to Michele Nicole Lydon, also known as Michele Nicole Villacorte  
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to  
26 the charges brought herein and will expire on February 28, 2013, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order  
2 to fix the degree of discipline or to determine if the conviction is substantially related  
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"  
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or  
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the  
following:

9 ....

10 (f) Conviction of a felony or of any offense substantially related to the  
11 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof.

12 ....

13 10. Section 2762 of the Code states:

14 In addition to other acts constituting unprofessional conduct within the meaning  
15 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
licensed under this chapter to do any of the following:

16 ....

17 (b) Use any controlled substance as defined in Division 10 (commencing with  
18 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
19 dangerous or injurious to himself or herself, any other person, or the public or to the  
extent that such use impairs his or her ability to conduct with safety to the public the  
20 practice authorized by his or her license.

21 (c) Be convicted of a criminal offense involving the prescription, consumption,  
22 or self-administration of any of the substances described in subdivisions (a) and (b) of  
this section, or the possession of, or falsification of a record pertaining to, the  
23 substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

24 ....

25 11. Section 2765 of the Code states:

26 A plea or verdict of guilty or a conviction following a plea of nolo contendere  
27 made to a charge substantially related to the qualifications, functions and duties of a  
registered nurse is deemed to be a conviction within the meaning of this article. The  
28 board may order the license or certificate suspended or revoked, or may decline to  
issue a license or certificate, when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

#### REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

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1 COSTS

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(February 9, 2011 Criminal Conviction for DUI on August 22, 2010)**

8 15. Respondent has subjected her license to disciplinary action under sections 490 and  
9 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially  
10 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as  
11 follows:

12 a. On or about February 9, 2011, in a criminal proceeding entitled *People of the*  
13 *State of California v. Michele Nicole Lydon, aka Michele Nicole Villacorte*, in Riverside County  
14 Superior Court, case number SWM10006411, Respondent was convicted on her plea of guilty of  
15 violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration  
16 (BAC) of 0.08% or more, a misdemeanor. Respondent admitted and the court found true the  
17 enhancement that Respondent's BAC was .15% or more, pursuant to Vehicle Code section  
18 23578. An additional count of violating Vehicle Code section 23152, subdivision (a), driving  
19 under the influence of alcohol, was dismissed pursuant to a plea agreement.

20 b. As a result of the conviction, on or about February 9, 2011, Respondent was  
21 sentenced to three years summary probation, and ordered to serve 30 days in custody with credit  
22 for two days. Respondent was permitted to serve the custody in the Work Release Program.  
23 Respondent was further ordered to complete a nine-month First Offender DUI Program (for a  
24 BAC over .20%), pay \$2,294.00 in fees, fines, and restitution, pay restitution to the victim for  
25 property damage, and to comply with the terms of standard DUI probation.

26 c. The facts that led to the conviction are that on or about the early morning of  
27 August 22, 2010, a Riverside County Sheriff's Deputy was dispatched to a report of a collision in  
28 a residential area of Temecula. Upon arrival, he saw Respondent standing on a sidewalk talking

1 to another deputy. An investigation of the accident revealed that Respondent had veered off the  
2 roadway, and collided with a Southern California Edison light pole, knocking it over and leaving  
3 exposed wires. Respondent's vehicle had major front end damage. While speaking to  
4 Respondent, the deputy noted she exhibited symptoms consistent with being under the influence  
5 of alcohol: alcoholic breath, red/bloodshot eyes, slurred speech, and an unsteady gait.  
6 Respondent was unable to complete the field sobriety tests as explained and demonstrated by the  
7 deputy. When she was told she was going to be arrested for DUI, she refused to submit to a  
8 breath or blood test and resisted arrest. Respondent complained of pain, so she was taken to a  
9 hospital for an evaluation where a blood sample was also drawn.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Use of Alcohol in a Dangerous Manner)**

12 16. Respondent has subjected her license to disciplinary action under section 2762,  
13 subdivision (b) of the Code for unprofessional conduct in that on or about August 22, 2010, as  
14 described in paragraph 15, above, Respondent used alcoholic beverages to an extent or in a  
15 manner that was potentially dangerous and injurious to herself, and to others in that she operated  
16 a motor vehicle with significantly high blood alcohol concentration, and caused a collision.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Conviction of an Alcohol-Related Criminal Offense)**

19 17. Respondent has subjected her license to disciplinary action under section 2762,  
20 subdivision (c) of the Code for unprofessional conduct in that on or about February 9, 2011, as  
21 described in paragraph 15, above, Respondent was convicted of a criminal offense involving the  
22 consumption and/or self-administration of alcohol.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 554439, issued to  
5 Michele Nicole Lydon, also known as Michele Nicole Villacorte;

6 2. Ordering Michele Nicole Lydon to pay the Board of Registered Nursing the  
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: August 1, 2011

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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